

Exhibit D

From: Leach, Robert (USACAN) <Robert.Leach@usdoj.gov>
Sent: Friday, August 21, 2020 5:53 PM
To: Wade, Lance; Downey, Kevin; Saharia, Amy; Trefz, Katherine
Cc: Coopersmith, Jeffrey; Schenk, Jeffrey (USACAN); Bostic, John (USACAN); Baehr-Jones, Vanessa (USACAN)
Subject: FW: US v. Holmes

Dear Lance,

Thank you for checking in on this. I hope you and your team are well too.

On May 10, 2019, you wrote to us seeking essentially the same information with respect to the Superseding Indictment. Dkt. 204-2. Unsatisfied with the government's response, Ms. Holmes moved to dismiss the indictment and for a bill of particulars. Dkt. 204, 204-3. On February 11, 2020, the Court denied the motion to dismiss and ordered the government to produce a bill of particulars only "as to the specific misrepresentations underlying the doctor-patient fraud and the names of any co-conspirators supporting count one." Dkt. 330 at 39. On March 26, 2020, the government served and lodged for filing under seal a bill of particulars conforming to the Court's order.

The changes reflected the Third Superseding Indictment are limited. Paragraph 3 adds a sentence: "Theranos's investors included individuals, entities, certain business partners, members of its board of directors, and individuals and entities who invested through firms formed for the exclusive or primary purpose of investing in Theranos's securities." Paragraph 10 adds the words "as early as 2010." Paragraphs 11, 12, and 20 change the date 2013 to 2010. Paragraph 13 adds the words "or outside California." Paragraph 16 adds the words "through, among other means, their involvement in Theranos's day-to-day operations and their knowledge of complaints received from doctors and patients" and identifies specific tests that were also listed in the government's bill of particulars. Paragraph 18 lists new victims: B.B., E.T., and M.E. Paragraph 26 adds the phrase "telephonic communications regarding lab test results" and alleges counts relating to B.B., E.T. and M.E., rather than Patients 1 and 2. In addition, there are minor changes to Paragraphs 1, 2, 7, and 15 and the word "Third" is added before the words "Superseding Indictment."

Theranos's investors are easily identifiable from the discovery that has been provided to you. For example, a list of Theranos equity investors issued stock certificates is available at THER-0905030. "Certain business partners" are Safeway and Walgreens. Members of Theranos' board are easily identifiable from the discovery provided to you. Indeed, many are listed in the stock certificate ledger reflected at THER-0905030. "Firms formed for the exclusive or primary purpose of investing in Theranos's securities" are also easily identifiable from the discovery and include Peer Ventures Group IV, L.P., Peer Ventures Group III, L.P., Lucas Venture Group XI, L.P., and Lucas Venture Group IV, L.P.

B.B. is [REDACTED]. E.T. is [REDACTED]. M.E. is [REDACTED].

An indictment "must be a plain, concise, and definite written statement of the essential facts constituting the offense charged." Fed. R. Crim. P. 7(c)(1). The Third Superseding Indictment satisfies this requirement. In addition, you have an early Jencks disclosure, the government's Rule 404(b) disclosure, its Rule 16 expert disclosure, its exhibit list, and its witness list, not to mention all of the discovery produced to date. Further explanation of the Third Superseding Indictment is wholly unnecessary for Ms. Holmes to understand the charges and present a defense.

Best regards,

Robert S. Leach
Assistant United States Attorney

United States Attorney's Office
Northern District of California
1301 Clay Street, Suite 340S
Oakland, California 94612
(510) 637-3918 -- Office
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From: Wade, Lance <LWade@wc.com>

Sent: Wednesday, August 19, 2020 12:51 PM

To: Leach, Robert (USACAN) <RLeach@usa.doj.gov>; Schenk, Jeffrey (USACAN) <JSchenk@usa.doj.gov>; Baehr-Jones, Vanessa (USACAN) <vbaehr-jones@usa.doj.gov>; Bostic, John (USACAN) <jbostic@usa.doj.gov>

Cc: Downey, Kevin <KDowney@wc.com>; Saharia, Amy <ASaharia@wc.com>; Trefz, Katherine <KTrefz@wc.com>

Subject: RE: US v. Holmes

Bob,

I hope you are well. I write in response to your May 4 e-mail below. The government returned a superseding indictment more than a month ago. Please let me know when we can expect a response to my April 24 letter, reattached hereto.

Thanks.

--Lance

Lance Wade

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From: Leach, Robert (USACAN) <Robert.Leach@usdoj.gov>

Sent: Monday, May 4, 2020 6:25 PM

To: Wade, Lance <LWade@wc.com>; Schenk, Jeffrey (USACAN) <Jeffrey.B.Schenk@usdoj.gov>; Baehr-Jones, Vanessa (USACAN) <Vanessa.Baehr-Jones@usdoj.gov>; Bostic, John (USACAN) <John.Bostic@usdoj.gov>

Cc: Downey, Kevin <KDowney@wc.com>; Saharia, Amy <ASaharia@wc.com>; Trefz, Katherine <KTrefz@wc.com>

Subject: RE: US v. Holmes

Lance:

I hope you are well. We will respond if and when a new charging instrument is filed. I will say now, though, your letter seems to seek a great deal that was denied in the motion for a bill of particulars.

Best regards,
Bob

From: Wade, Lance <LWade@wc.com>

Sent: Thursday, April 30, 2020 1:42 PM

To: Leach, Robert (USACAN) <RLeach@usa.doj.gov>; Schenk, Jeffrey (USACAN) <JSchenk@usa.doj.gov>; Baehr-Jones, Vanessa (USACAN) <vbaehr-jones@usa.doj.gov>; Bostic, John (USACAN) <jbostic@usa.doj.gov>
Cc: Downey, Kevin <KDowney@wc.com>; Saharia, Amy <ASaharia@wc.com>; Trefz, Katherine <KTrefz@wc.com>
Subject: RE: US v. Holmes

Counsel:

Good afternoon. I just wanted to follow-up on the attached letter and inquire as to when we might expect a response.

Many thanks.

--Lance

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From: Wade, Lance
Sent: Thursday, April 9, 2020 9:22 PM
To: 'Leach, Robert (USACAN)' <Robert.Leach@usdoj.gov>; Schenk, Jeffrey (USACAN) <Jeffrey.B.Schenk@usdoj.gov>; Baehr-Jones, Vanessa (USACAN) <Vanessa.Baehr-Jones@usdoj.gov>; Bostic, John (USACAN) <John.Bostic@usdoj.gov>
Cc: Wade, Lance <LWade@wc.com>; Downey, Kevin <KDowney@wc.com>; Saharia, Amy <ASaharia@wc.com>; Trefz, Katherine <KTrefz@wc.com>
Subject: US v. Holmes

Please see the attached.

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